

**Town of Amherst**  
**Zoning Board of Appeals - Special Permit**

*DECISION*

**Applicant:** Andrew Skipton and Sue Adams

**Date application filed with the Town Clerk:** July 22, 2004

**Nature of request:** Applicant seeks to expand the use on a non-conforming lot from a one-family to three-family dwelling under Section 9.22 of the Zoning Bylaw, including use of the existing historic barn as a dwelling unit, on the premises at 54 High Street (Map 14B, Parcel 79, R-G Zoning District).

**Legal notice:** Published in the Daily Hampshire Gazette on July 26 and August 2, 2004 and sent to abutters on July 26, 2004.

**Board members:** Zina Tillona, Ted Rising, Joan Golowich

**Submissions:**

The Petitioner submitted a management plan for the proposed three-units, and a 5-page set of preliminary plans prepared by Schafer Engineering Associates, dated 5/27/04. These plans showed two proposed scenarios:

1. Preserving, moving and renovating the barn, with 6 parking spaces and a total of 3 dwelling units.
2. Removing the barn, with 4 parking spaces and a total of two dwelling units.

Later, for the continued hearing, an 8-page set of plans prepared by Schafer Engineering Associates, dated 8/26/04, was submitted. The plans include the plot plan with parking, and details of the house reconstruction. The barn restoration/relocation had been removed from the plans.

The Planning Department submitted three memoranda:

- #2004-10, the Historical Commission gave two recommendations concerning the proposal to dismantle the barn structure, pour a new foundation and reassemble the barn, using existing and new materials.
- #2004-28, had details of dimensional requirements of the property, Historical Commission review, three alternative development plans then suggested by the applicant, and Planning Department recommendations.
- #2004-29, recapped the highlights of the August 9<sup>th</sup> hearing and details of the second set of submitted plans.

**Site Visit:** August 5, 2004

At the site visit, the Board observed that the house is a two-story Greek revival-type residence in a 19-century neighborhood of older homes on small lots, locally referred to as "Crow Hill". This particular house was build around 1870 and is essentially in its original condition. The single story rear addition has been removed, so that the formerly attached barn is now free-standing. The barn, which is proposed to be dismantled and reconstructed, has deteriorated considerably through the years.

**Public Hearing:** August 9, 2004

Andrew Skipton presented the request to expand and convert the single-family dwelling and barn to either a two or three-family dwelling. Two units would be in the house, and a third unit, a studio-apartment, would be in the barn for his father. The house and barn are original from the 1870's and located in a Historical District.

The applicants said they did not have definitive engineering plans made yet because of the expense, and they first wanted to hear from the Board regarding what was most feasible to accomplish. The barn can be restored, the applicants said. It has a post-and-beam construction; some timbers can be salvaged and reconstructed. However, rebuilding and moving the barn may or may not be cost effective.

The Board said that they need information regarding the structural soundness of the barn.

The Building Commissioner stated that the building code is more stringent than just engineering solutions for the barn restoration. For the proposed three-family with two separate buildings in the original location 14 feet apart, the fire rating protections must be on both the outside and inside of the building. If the barn is moved back 25 feet away from the house, the fire rating could be less, just on the inside wall. Sprinkling both buildings, another option, is very expensive, and would require a larger water line from the street.

The Board noted that the lot currently is non-conforming in dimensional requirements in an R-G Zone for lot area, frontage and side setback on the north side – see chart below. Adding two units with the required two parking places per unit would increase the non-conformity for lot area and maximum coverage required. Specifically:

	Existing/Proposed Dimensions			
	<u>Existing</u>	<u>Bylaw required</u>	<u>Proposed 3-units</u>	<u>Proposed 2-units</u>
• Lot area (sq. ft.)	10,820	12,000	17,000	14,500
• Frontage (ft.)	62.5	100	no change	no change
• N-side setback (ft.)	3	10	no change	no change
• Coverage	34%	40%	48.3%	42.5%

The Petitioner stated that, if three units, the house will be owner-occupied, and Mr. Skipton's father would live in the barn studio apartment.

The Board suggested that, although 6 parking places are required for three dwelling units, the Bylaw does allow some leeway and the number of cars allowed to park continually on the property could be conditioned.

The Board asked about the height of the proposed addition. The Petitioner stated that the barn is 20 feet, 10 inches. The house is less than 30-feet tall, and the rear addition to the house will be lower. Maximum height in an R-G Zoning District is 40 feet.

Three people from the neighborhood spoke at the hearing.

Francesca Maltese, 45 High Street, complimented the petitioners on their good job in the reconstruction to date. She said that she had three concerns:

1. Parking is a problem on High Street. The driveways across from each other don't line up, so that cars parked on the street are a detriment for neighbors trying to exit their driveway. Bus traffic has made on-street parking dangerous as well. She requested that there be appropriate parking on the site.
2. The Town sewer line in this neighborhood is inadequate and over-capacity now. The sewer lines back up into houses now.
3. The greater density for in-town neighborhoods has resulted in more "investment property." It doesn't increase the affordable housing stock. Ms. Maltese questions whether such density fits with family neighborhoods.

Susan Barbaro, 40 High Street, lives two houses south, about 75 feet, from the property under consideration. She is concerned that the lighting and cars from proposed on-site parking would negatively impact her property. She requested that a high fence be placed along the Petitioner's southern boundary for screening.

John Barbaro, 40 High Street, said that he supports the renovation as well. He would like the barn to stay on the property, the parking to be placed behind the house, and adequate on-site parking for the dwelling units. He stated that the lower branches have been removed on the pine trees between their house and the applicant's; hence he is reinforcing the request for screening and down lighting.

Sue Adams, co-applicant, thanked the neighbors for their input, and assured them that they want to attract singles and couples similar to those who live in the neighborhood now. The total number of bedrooms won't change in the house, she said, just a re-distribution. The first floor unit would have 2 bedrooms; the second floor would have 1 bedroom.

The Board stated that they need a definite plan for parking, screening, and exterior lighting. They also need more information concerning whether the barn can be moved. Therefore, the Board stated that they would like to see two sets of plans – with and without the barn – with relevant parking and screening for each. The barn will not be attached to the house.

The Board continued the hearing until September 16, 2004.

Because September 16<sup>th</sup> was a holiday, the hearing was continued at that time until September 23, 2004

**Public Hearing** (continued)                      September 23, 2004

The Petitioners submitted the second set of plans to convert the property, and informed the Board that they were just interested in pursuing restoring the house to create two dwelling units. The barn reconstruction would not be considered at this time.

The plans depicted a fence for screening, parking and landscaping. Lighting is proposed at the entrance to the parking area, and is motion-activated. The two rear entrances to the house, first and second floor, both have exterior lights.

The Board expressed some concern about the lighting, because the house and proposed parking are so close to the northern property line. The Petitioner responded that the driveway to the adjacent property is along that boundary, and that neighbor's garage is located right next to the Petitioner's proposed parking. The garage will block the car lights.

The Board inquired about the future of the barn. Mr. Skipton replied that he is willing to move and rebuild the barn. In the future, if it is possible to relocate the barn on this property, he will do so.

The Petitioners were reminded that a demolition permit is needed to remove the barn.

Susan Barbaro, 40 High St., spoke at the hearing. She said that with a two-family house and the parking on the north side of the lot, the fence is not as much of a concern now.

The Petitioners responded that they would rather not have a fence on their southern boundary for several reasons. There is already a row of pines 30" in diameter, and they want to preserve, not disturb them. Secondly, the neighbors between the applicants' and the Barbaro properties already have a fence along their southern boundary right within a few feet of the Barbaro's house. Third, cars would not be seen from the Barbaro's second floor because of the pine trees. Finally, most residents do experience some lighting from neighbors' cars or houses as a normal part of living in close quarters.

The Board agreed that some screening is desirable, but that an 8 ft. fence is not needed. A privacy hedge of arborvitae or similar small evergreens that grow in shaded areas might be the best screen for the south-west border.

Ted Rising moved to close the hearing; Joan Golowich seconded, and the vote was unanimous to close the hearing.

**Public Meeting:**

The Board found the plans for the two units in the house to be well designed and appropriate for the neighborhood. The plans include floor layouts, elevations and structural details for the house, as well as the proposed parking and plantings.

**Findings:**

Section 9.22 states that the Board may authorize the use of a non-conforming parcel to be extended and the building to be reconstructed, provided that the change is not substantially more detrimental to the neighborhood than the existing non-conforming use or building. The Board finds the proposed reconstruction to be a positive addition to the neighborhood. The petitioners are experienced in reconstruction of historic buildings and the Board determined from the plans and the work done to date that the historic character of the building will be preserved with the restoration.

Section 10.38 of the Zoning Bylaw, Specific Findings, is required of all Special Permits. The Board finds that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood since there is a mixture of single and multi-family dwellings in the area. Moreover, the proposal will preserve the historical character of the 1870 house.

10.382, 10.382 & 10.385– The proposal will not be an inconvenience to the area or a nuisance due to noise or lights; the driveway, parking and screening are suitable to the neighborhood. Lighting will be motion-activated and pointed downward, and should not extend obtrusively into adjacent properties.

10.384, 10.386, 10.387 & 10.388 - The proposal provides for four parking places, plus adequate turn around and driveway space. With the removal of the barn, movement within the site is even more safe and convenient.

10.391 – The proposal protects, to the extent feasible, the unique historic features of the house. Much of the work proposed appears to be structural improvements. The second-story addition in the rear will be of the same character as the original house, and the exterior stairs required as a secondary egress will be located in the rear of the building.

10.392 & 10.393 – The proposal provides adequate landscaping and screening of adjacent residences, since an evergreen screen to the south already exists. This screen will be augmented by more evergreen plantings. The petitioners also will include shrubs and flower beds in the front of the property and along the southern side of the driveway.

10.398 – The proposal is in harmony with the general purpose and intent of the Bylaw since it improves the safety and appearance of an historic building while providing for additional rental units in an area near the Town center.

**Zoning Board Decision:**

Joan Golowich moved to APPROVE the petition; Ted Rising seconded the motion. For all the reasons stated above, the Board VOTED UNANIMOUSLY to grant a Special Permit under Section 9.22 of the Bylaw to Andrew Skipton and Sue Adams to expand the use on a non-conforming lot from a one-family to a two-family dwelling on the premises at 54 High Street (Map 14B/Parcel 79, R-G Zoning District), with conditions.

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ZINA TILLONA

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TED RISING

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JOAN GOLOWICH

FILED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2004 at \_\_\_\_\_,  
in the office of the Amherst Town Clerk \_\_\_\_\_.

TWENTY-DAY APPEAL period expires, \_\_\_\_\_ 2004.  
NOTICE OF DECISION mailed this \_\_\_\_\_ day of \_\_\_\_\_, 2004  
to the attached list of addresses by \_\_\_\_\_, for the Board.

NOTICE OF PERMIT or Variance filed this \_\_\_\_\_ day of \_\_\_\_\_, 2004,  
in the Hampshire County Registry of Deeds.

**Town of Amherst**  
**Zoning Board of Appeals**

*SPECIAL PERMIT*

The Amherst Zoning Board of Appeals hereby grants a Special Permit to Andrew Skipton and Sue Adams to expand the use on a non-conforming lot from a one-family to a two-family dwelling on the premises at 54 High Street (Map 14B/Parcel 79, R-G Zoning District), subject to the following conditions:

1. The proposal shall be built according to the plan approved at the September 23, 2004 meeting.
2. An evergreen screen shall be installed along the southern property line.
3. The lighting shall be installed as shown on the approved plan and shall be downcast.
4. The property shall be managed according to the Management Plan approved at the September 23, 2004 meeting.

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ZINA TILLONA, Chair  
Amherst Zoning Board of Appeals

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DATE